ISLAMIC BIOMEDICAL ETHICS: AN OVERVIEW

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ABSTRACT

Published works on Islamic biomedical ethics principles commonly discuss about *usul al-fiqh, qawa'id al-fiqhiyyah* and *maqasid al-shari'ah*. This article aims to illustrate other basic concepts of the Islamic biomedical ethics to help readers to better understand the topic. As Islam means complete submission to God, all aspects of life is regulated by the *Shari'ah* where the definitions of right, wrong, moral and immoral are guided by revelation. Juristic variances are common in Islam due to different interpretation of the sources of law, variant knowledge regarding authenticity and content of *hadith*, variant acceptance toward secondary sources of law and different customs in different places. Prioritisation rules (*fiqh al-awlawiyyat*) in the Islamic law are employed in conflicting circumstances. Islamic biomedical ethics concerns with the rulings of biomedical procedures and various rights and obligations of numerous individual groups involved. Surface knowledge on the bases of Islamic law is insufficient for non-scholars to deliberate rulings of specific procedures by themselves as the process require other profound knowledge in other Islamic disciplines. Instead, non-jurists play vital role to inform the jurist regarding the need of new or revision of *fatāwā*, explain the procedures to *mujtahid* scholars to allow them to deliberate the ruling of the procedure.

Keywords: *Islamic ethics; bioethics; biomedical ethics; medical ethics*

1.0 INTRODUCTION

Literature review of published works on basic Islamic biomedical ethics principles shows that *usul al-fiqh* [1-6]; *qawa'id al-fiqhiyyah* [1-2, 4-8] and *maqasid al-shari'ah* [1-2, 4-8] are presented. This paper aims to bring a step forward in explaining Islamic jurisprudence to non-Islamic studies groups interested in Islamic biomedical ethics by highlighting other principles required in deliberation process, scopes of Islamic biomedical ethics and criteria of a *mujtahid* (a scholar qualified to issue a *fatwā*).

This article begins by presenting the meaning of Islam, the entities of Islam as the way of life and the position of ethics in Islam. The *usul al-fiqh* (bases or sources of jurisprudence), *qawa'id al-fiqhiyyah* (principles of law) *maqasid al-shari'ah* (purpose or objectives of law) and *fiqh al-awlawiyyat* (prioritization rules) are then briefly outlined to help readers gain insight and thus, better understand the Islamic law. Then, this paper presents the scopes and concerns of Islamic biomedical ethics and the relationship between the different entities involved. Finally, the criteria of a *mujtahid* and the role of non-jurist groups in this discipline are presented.

2.0 MATERIALS AND METHODS

This study uses qualitative approach to explore current literature on the basic principles of Islamic biomedical ethics. Boolean search through various search engines and databases were conducted to search for relevant materials using appropriate terms such as [(Islam OR Islamic OR Muslim) AND (bioethics OR ethics OR ethical)]. Content analysis of relevant materials gathered through library research was conducted to identify basic principles of Islamic biomedical ethics discussed in the Biomedical Sciences literature and other Islamic ethical principles that have not been highlighted.

3.0 DISCUSSION

The Islamic teaching is based on the revelation from Allah, the one and only God. Islam means the complete submission to God by complying with His commands [9]. The notion "*Islam is not merely a religion but more to the way of life*" is commonly articulated when Islam becomes the subject matter of discussion. The worldly life is a temporary preparation ground for the everlasting life in the Hereafter, where paradise is only achievable by obeying God's rules in the worldly life. As the Creator of the universe and all life forms, only God knows what is best for us and how we should live our lives, which He has revealed through the *Qur'an*, and through Prophet Muhammad (peace be upon him).

Islamic teaching does not emphasis solely on the Human-God relationship; instead every aspect of life is regulated by the *Shari'ah* (Islamic law), ensuring good relationship with God, intrapersonal, interpersonal and human-non-human (animals and nature) relationships [9]. This covers daily personal activities to worshipping acts, friendship, marriage, economics, politics and criminal law [10, 11]. Figure 1 summarises the entities of the Islamic way of life.
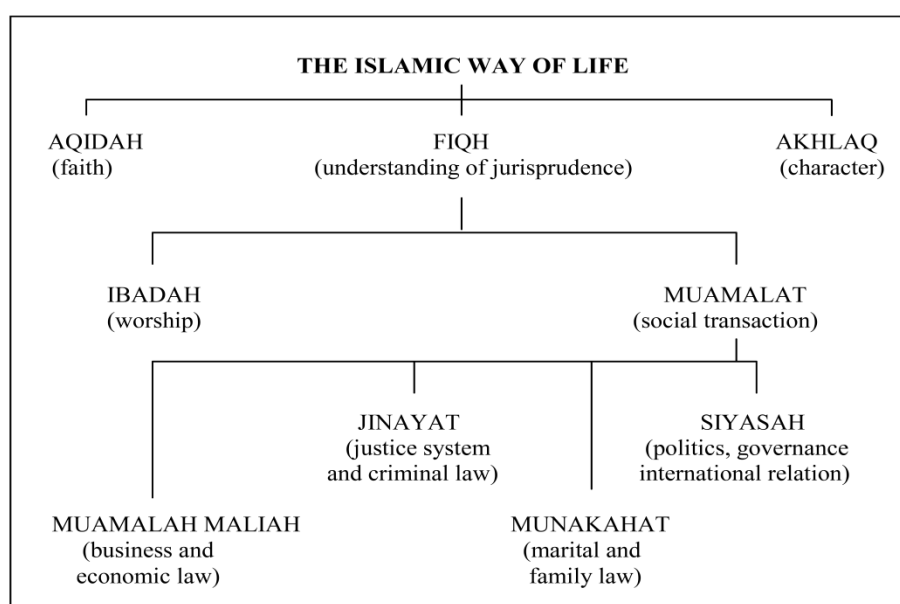

Figure 1: The entities of the Islamic way of life [10, 11]

Ethics is an inseparable entity of the comprehensive Islamic *Shari'ah* [1, 6]. Being incorporated in every aspect of the Islamic teaching, Islamic literature on ethics is dispersed across different fields of the Islamic literature, namely '*aqidah* (faith), *fiqh* (understanding of jurisprudence), *usul al-fiqh* (the bases of jurisprudence) and *akhlaq*.

> *The Prophet (peace be upon him) said, "I was sent to perfect the honourable akhlaq of mankind."* (Narrated by Imam Malik) [12]

> *The Prophet (peace be upon him) said, "The best among you are those who have the best manners and character."* (Narrated by Bukhari) [13]

Akhlaq can be translated as character, morality, ethics, etiquettes and manners, though the latter two terms are more specifically translated as *adab*. Note that morality and ethics are not divorced. Padela (2007) distinguished the conventional definition of the two terms; ethics as "*being what is 'appropriate and rational'*" while morality as "*being more subjective and amenable to change over time, being what is 'commonly felt and done'*" [6].

The deliberation process to assign a legal status in Islam involves a holistic inquiry of the issue from the '*aqidah*, *fiqh* and *akhlaq* perspectives as shown in Figure 1. An issue is considered ethical in Islam when it conforms to or holds no contradiction with all the branches in Islamic teaching.

3.1 The *Usul al-Fiqh*, Bases or Sources of Jurisprudence

Determination of the legal status of an action in Islam solely lies in authority of God. The *Quran*, *Sunnah*, *ijma'* and *qiyas* are the four primary sources of Islamic law. The revealed word of God in the *Qur'an*, the Prophetic *Sunnah* (words or actions of Prophet Muhammad, peace be upon him) and *ijma'* (Muslim jurists' consensus) are the primary undisputable sources of Islamic law. If the legal status of an action is unmentioned in any of the three sources, *qiyas* (analogical reasoning) is used by Muslim scholars to deliberate on the status of the action [10]. Muslim jurists would search for and study precedent cases (*asl*) which share similarities with the current case under consideration. Subsequently, juridical decisions (*fatāwā* singular: *fatwā*) are issued based on the principle of the precedent cases [2]. In addition to the agreed primary sources of law, there are secondary sources of law which are accepted in varying degrees among Muslim scholars. These includes revealed law preceding the Islamic *Shari'ah*, the *fatāwā* of the companions, *istihsan* (equity), *maslahah mursalah* (public interest), *istishab* (presumption of continuity) and *sad al-dhara'i* (blocking the means) [14-15].

Muslim scholars' juridical disagreements (*ikhtilaf*) regarding the rulings of certain commonly occurs for a few reasons. Variances in the interpretation of the sources of law within the approved boundaries is an example of the reasons for differences in opinions. Besides that, variation in the knowledge pertaining to the content and the authenticity status of *ahadith* being considered also contribute to the phenomenon. The use of secondary sources of law and principles of law, which are not agreed by all scholars also results in this ethical

pluralism [11, 14]. The principle of *'urf* (custom), which is addressed in section 3.3 of *Qawa'id al-Fiqhiyyah*, may also lead to variances in opinions among scholars in different places. Valid variances of opinions among qualified Muslim scholars who strived to deliberate the legal status of an issue based on valid evidence must be respected [14] to ensure unity. Despite that, it is essential to note that the variations in legality rulings are only present for detailed 'branched' issues (*furu'*) but never with the core fundamental issues regarding the Islamic faith itself or for rulings that has be explicitly mentioned in the *Qur'an* or hadith [11].

Based on these bases of jurisprudence template, scholars will decide the legality status of the issue based on the legal status which is summarised in the following table [11]:

Table 1. Legal status of actions in Islam [11]

Type	Definition
Fard or *wajib*	Obligatory actions – those who perform these will be rewarded while those who omit these will be sinful
Mandub, *nafilah* or *mustahab*	Recommended actions – those who perform these will be rewarded while those who omit these is not sinful
Mubah	Permitted actions – those who perform or omit these will not be rewarded and not sinful
Makruh	Discouraged actions – those who perform these will not be sinful while those who omit these will be rewarded
Haram	Forbidden actions– those who perform these will be sinful while those who omit these will be rewarded

3.2 The *Maqasid al-Shari'ah*, Purposes or Objectives of Law

The *Maqasid al-Shari'ah* is translated as the purposes or objectives of law. It lists six fundamental elements of life that ought to be preserved. Violation to any of the items listed in the *Maqasid al-Shari'ah* is considered an ethical infringement.

With the aim of securing one's faith, protection of religion sits on top of the list of *Maqasid al-Shariah*. This is followed by the protection of life and the physical well-being to maintain quality of life. The third objective is the protection of the lineage to preserve the integrity of family units and continuity of human existence. Protection of honour takes place as the next purpose of law which advocates the maintenance of one's dignity and honour. Some scholars place the protection of honour under the category of the protection of lineage, leaving only five items as in the *Maqasid al-Shari'ah*. Protection of intellect is listed next, which

safeguard one's mental and intellectual well-being. The protection of property is the final article which intend to promote security of one's belongings [1, 16]. Muslim scholars further categorize the list into three strata based on their importance to the human survival, thus implicates prioritization. The first stratum is *al-daruriyyah* or utter necessities of life, fundamental for human survival and well-being. While *al-hajiyyah* are the complimentary of life, that without which, survival is feasible but arduous. On the contrary, *al- tahsiniyyah* are the ameliorators or embellishments, which renders life more comfortable but their absence is inconsequential to one's survival and well-being [17].

3.3 The *Qawa'id al-Fiqhiyyah*, Principles of Law

The *qawa'id al-fiqhiyyah*, the principles of law or also translated as the legal maxims, serves as the decision-making tool in deliberating the ethical status of an issue. There are five main principles and every principle has its own sub-principles [1, 18].

1. Certainty is not overruled by doubt.
2. Hardship begets relaxation of the *Sharī'ah* rules
3. Harm must be eliminated.
4. Custom has legal authority.
5. Action is judged by the underlying intention.

Other than the above, there are more than sixty other principles [18]. Besides that, there are multiple sub-principles and specific exceptions to each principle, as explained in *usul al-fiqh* literature.

3.4. The *Fiqh al-Awlawiyyat*, Prioritisation rules

At times, conflict of purpose, responsibilities, rights, benefits and harms might arise in which situations demand us to prioritise our consideration. *Fiqh al-awlawiyyat* is another branch of Islamic knowledge that emphasis on prioritisation of actions. The rule of prioritisation is case-based that need to consider all playing factor and the principles of the *usul al-fiqh*, but the general rules is outlined as follows [17]:

Box 1: *Fiqh al-Awlawiyyat*, the law of prioritization [17]

Fiqh al-Awlawiyyāt, the law of prioritisation

1. General prioritisation
   a. Society's rights over individual's rights
   b. Quality over quantity
   c. *Daruriyyah* (primary essentials) over *hajiyyah* (complementary) over *tahsiniyyah* (embellishments)
2. Prioritisation in the academia
   a. Knowledge over knowledge-less deeds
   b. Understanding the underlying aims and core issues, over understanding the surface issues, over memorisation without understanding
   c. *Ijtihad* (personal reasoning) over *taqlid* (imitation)
   d. Strategic research and planning before implementing something
3. Prioritisation in issuing *fatāwā* and *da'wah*
   a. Easing and not make difficult, within the permissible scope (the easier option between two lawful choices)
   b. Acknowledge *darurah* situations
   c. Gradualness over hastiness
4. Prioritisation in deeds
   a. Continual deeds over one-off deeds
   b. Society-benefiting over self-benefiting
   c. Long-term over short-term benefit
   d. Internal over external deeds
5. Prioritisation in the obligation mandated by Allah
   a. Core issues over branched issues
   b. *Farḍ al-'ayn* (mandatory for every Muslim) around human rights, over *farḍ al-'ayn* around worshipping acts per se, over *farḍ al-kifayah* (mandatory for at least a group of people in a Muslim community, when undertaken by a group of people, it becomes non-obligatory to others), over *mandub al-mu'akkad* (highly recommended acts), over *mandub ghayr al-mu'akkadah* (encouraged acts).
6. Severity level of the forbidden acts
   a. *Shirk* (acknowledging other supremacy than Allah)
   b. *Ḥaram - Al-Kabair* (prohibited act - major sins)
   c. *Ḥaram - Al-Ṣaghair* (prohibited act - minor sins)
   d. *Shubhah* (an act that lies uncertainly between the prohibited and permitted)
   e. *Makruh* (discouraged actions)
7. Priority in society improvement
   a. Mentality change before organisational change
   b. *Tarbiyyah* (holistic human development) before involving in any programs

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3.6 Components of Islamic Biomedical Ethics

The issues in Islamic biomedical ethics revolve around two main topics - the different life entities and the procedures (Figure 2). In general, Islamic ethics consists of rights and obligations towards God, towards oneself, towards other people and towards other creatures [9]. The practitioner, consumer, society and the institutional provider are the human entities involved in the subject matter. Thus, holistic Islamic biomedical ethics discuss the rights, responsibilities and etiquettes of each of the human entity to God, to themselves, to each other in the same entity group and to other individuals or non-human entities in other entity groups.
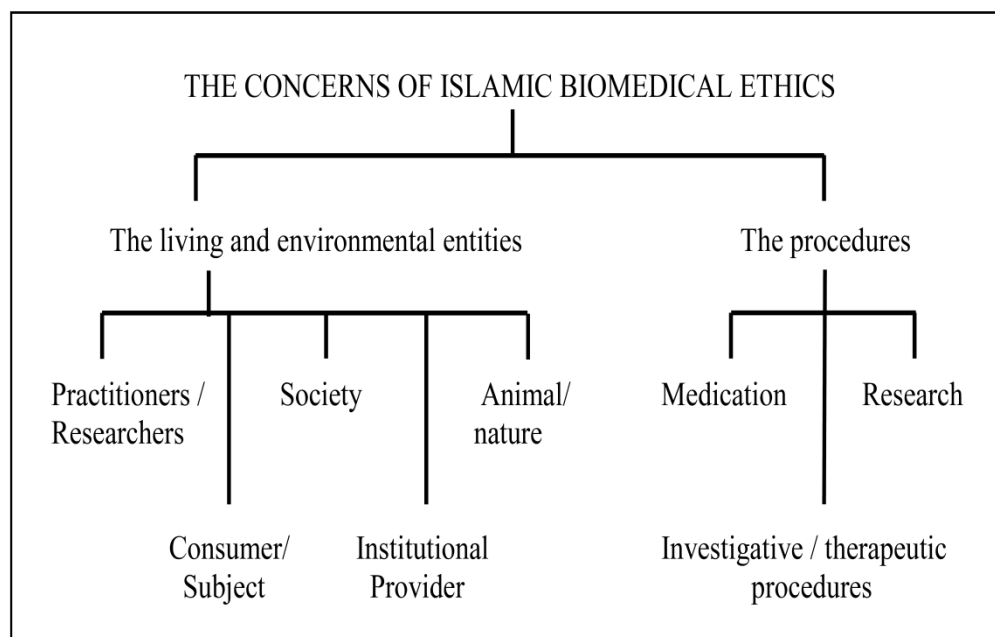

Figure 2: The concerns of Islamic biomedical ethics

The practitioner and researcher entity of the Islamic biomedical ethics consists of everyone working in the biomedical field. Each biomedical profession has their own professional ethics; for example, nursing ethics, research ethics and so on; which share certain level of similarities across different biomedical professions. Besides biomedical workers, biomedical students such as medical students, nursing students and other allied sciences students also constitute this entity. The consumer and subject entity encompasses of biomedical consumers and human research subjects. The relatives and other members of the society constitute the society entity which is one of the concerns of Islamic health care ethics since it holds a substantial role in the patient's or subject's management both directly and indirectly. The institutional provider entity composes of the public authority and the private providers who bear great responsibility in providing appropriate facilities, providing funds, devising health care policies and sustaining apposite regulatory systems. Lastly, animal and nature are non-human entities involved in the Islamic biomedical ethics consideration.

On the other hand, the ethical status of different procedures is another main branch of Islamic health care ethics. This branch has attained the most scholarly attention, where most Islamic biomedical ethics literatures focus their discussion on the Islamic rulings of specific procedures and utilisation of different substances in the biomedical field. All substances used, either for therapeutics or other related purposes are discussed under the medication branch while the research branch discusses the ethical status of the issues pertaining to the research, including its objectives and methodologies. The investigative and therapeutic procedures branch discusses the ethical status of diverse biomedical procedures encompassing non-invasive, invasive and supportive procedures.
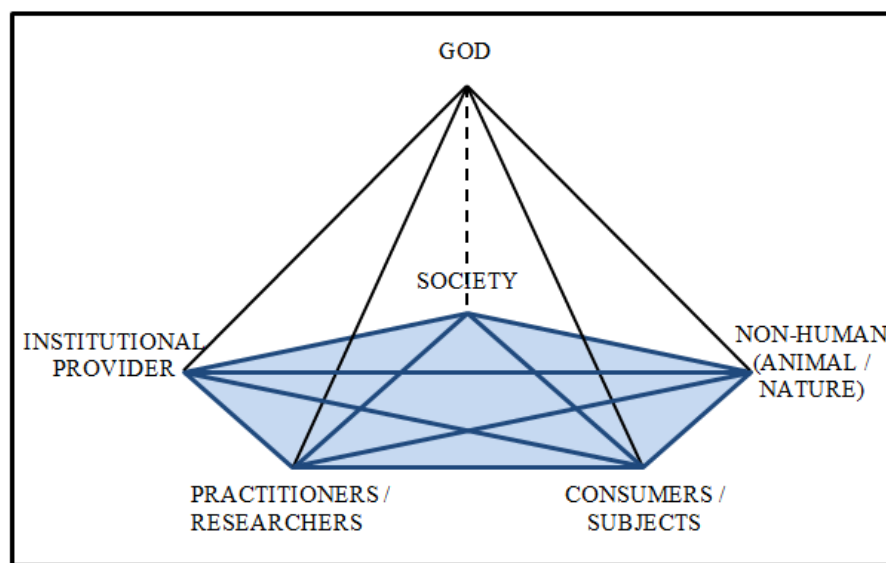

Figure 3: The relationship between different human and non-human entities in Islamic biomedical ethics.

Figure 3 represents the pyramidal relationship model of the different entities in Islamic medical ethics. The blue lines represent the relationship between individuals that is regulated by the blue base which represent the *Shari'ah*, the Islamic law. The relationship between an individual to another is not a direct relationship, instead it is triangular relationship where God is the intermediary, as simplified in Figure 3, 4 and 5. In other words, an action is performed by an individual to another individual in certain manners because it is either permissible, recommended or ruled obligatory by God, thus done in order to gain His blessings in this worldly life. Hence, there are responsibilities towards others that need to be performed and rights of others that need to be fulfilled in the relationship, in certain manners or etiquette as recommended by the *Shari'ah*, even though one dislike the other party. If the action is discouraged or forbidden by God, Muslims should discontinue their intention of performing it in order to avoid God's wrath. Fulfilling these obligations are central to the concept of justice in Islam, called *'adalah*, which means "putting something to its appropriate place" [2] rather than "treating equally" because each entity has different characteristics and needs.
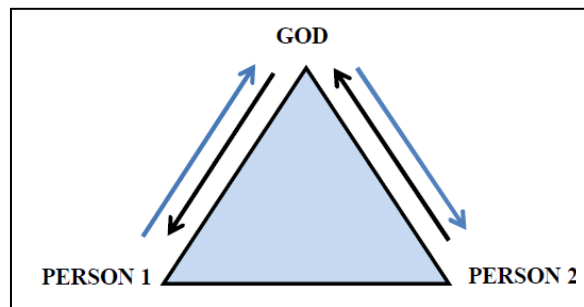
Figure 4: The interpersonal relationship model in Islam, leaving arrows represent the responsibilities toward others while reaching arrows represent the rights of individuals.
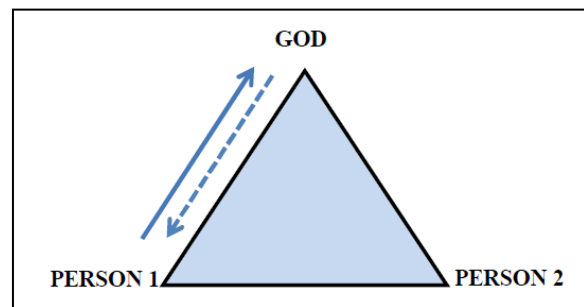

Figure 5: If an action is discouraged or forbidden by God, Muslim should discontinue the action to avoid God's wrath.

3.7 Pre-requisites of a *mujtahid*

Basic knowledge of conventional ethics principles is sufficient to guide individuals in applying the basic principles to specific cases as long as he could reason rationally based on the principles. Unlike conventional ethics, general principles of Islamic biomedical ethics may be difficult to apply without profound knowledge of the Islamic teaching because Islamic law is not merely based on logical reasoning. Logical reasoning plays a substantive role in the process of *ijtihad* but it is bounded by the Islamic jurisprudence framework. Revelation holds the supreme authority where in certain circumstances, what God decree may not always be compatible with one's logic.

> *Ali ibn Abi Talib said "If the religion was based on the opinion, it would be more important to wipe the underpart of the shoe than the upper but I have seen the Prophet wiping over the upper part of his shoes."* (Narrated by Abu Dawud) [19]

In Islam, an act is considered moral because God permits us to do it and on the contrary, it is considered immoral because God forbids it, regardless of what the logical thinking or scientific evidence say. The decree, as Sachedina (2006) described, are "*simply part of God's prerogative as the Creator to demand unquestioning obedience*" [20]. In order to be ruled as permissible, multiple worldly and religious issues have to be considered and no relevant issues shall contradict any aspects of the Islamic teaching from the *aqidah*, *fiqh* and *akhlaq* angles. Non-jurists may be incompetent in exploring all the issues and reason them using the Islamic framework.

The Prophet (peace be upon him) said, "Whoever interprets the Qur'an by his own opinion (according to another report, whoever interprets the Qur'an without knowledge), let him seek his abode in hell." (Narrated by Tirmidhi) [21]

The Prophet (peace be upon him) said, "Whoever interprets the Qur'an by his own understanding and chances to arrive at the correct meaning, still he has erred." (Narrated by Tirmidhi and Abu Dawud) [21]

Islam accentuates correct employment of methodologies as prescribed by the *Shari'ah* in reaching a conclusion. Hence, if the methodology is right, the *mujtahid* will still be rewarded for his effort even if the verdict is he issued is wrong.

The Prophet (peace be upon him) said, "When the hakim strives to make a ruling based on ijtihad and is correct, he receives two rewards, and if he makes a wrong ijtihad, he gets one reward." (Muttafaq 'alaih) [11].

Surface knowledge on the methodology of jurisprudence, purposes, principles and prioritisation of law is insufficient for an individual to deliberate on the ethical status of specific issues in Islam. Besides these knowledge, one must also know and has the ability to apply the numerous knowledge during deliberation process. The pre-requisites of a *mujtahid* (a person qualified to deliberate on the ruling of an issue) are listed as follows [14];

1. A just, trustworthy and mentally sound adult Muslim who abstain from sinful acts
2. Has profound knowledge in the sciences of the *Qur'an*
3. Has profound knowledge in the sciences of the *ahadith*
4. Has profound knowledge on *ijma* issues

5. Has profound knowledge on *qiyas*
6. Has profound knowledge and skills in the Arabic language
7. Has profound knowledge in *usul al-fiqh*

3.8 Role of non-jurists in Islamic biomedical ethics discipline

Despite not fulfilling the pre-requisites for deliberating the ruling of an issue in Islam, non-jurist groups have an important role in Islamic biomedical ethics. Padela, Shanawani and Aruzollah (2011) highlighted the need to involve all relevant expert groups during deliberation process in order to formulate a practical comprehensive *fatwā*. Relevant non-jurist groups involved includes biomedical professionals, social scientists and humanities scholars [22].

As scientific research progress, new insights are discovered and new technologies are developed that require formulation of new *fatāwā*. Other than new technologies, changes in procedures, emerging challenges, newly identified problems or new understanding of current technology may require revision of previous *fatāwā* that was formulated in the absence of the specific information. Relevant non-jurist groups involved in biomedical field bear the responsibility to inform Muslim jurists regarding the need to deliberate on the issue as Muslim jurists may not be aware of emerging technologies or changing circumstances.

In order to assign appropriate ruling to an issue, Muslim jurists has to fully understand the circumstances, procedures, beneficial effect, negative consequences and all other relevant information. This is only made possible with the explanation provided by trustworthy non-jurist groups who are expert in the area.

Once *fatāwā* are issued, Muslim biomedical professionals should strive to implement the *fatāwā* in their day-to-day practice by ensuring that the procedures involved in their works are *Shari'ah* compliant. On the other hand, Muslim policy makers should strive to formulate new policy or revise past policy to make it compatible with the *fatāwā* issued.

4.0 CONCLUSION

The Islamic ethico-legal framework is comprehensive and requires extensive discussions on the different bases, purposes, principles and prioritisation of law. Islamic biomedical ethics concerns with the biomedical procedures and relationships of different entities involved. However, the facts presented are not in any sense exhaustive, but rather a brief illustration that enables one to understand the scope and basis of Islamic biomedical ethics.

Islamic biomedical ethics is a multidisciplinary field which requires profound understanding of both the Islamic precepts and biomedical knowledge. The Muslim jurists are the ones with the greatest knowledge and understanding of the Islamic law, thus they have the utmost credibility among Muslims to decide on the ethico-legal status of an issue.

However, in order to issue practical sound *fatāwā*, it is important for them to understand the nature and implications of each ethical case which could only be achieved through the consultation with trustworthy biomedical professionals and policy makers. Thus, multidisciplinary involvement is the key to successful exploration of the issues and successful decision-making in this arena. Non-jurists in biomedical discipline have a profound role in helping Muslim jurists to understand the procedure or circumstances of the specific ethical dilemma. If non-jurists in biomedical discipline reckon that the *fatwā* lacks consideration on certain issue, then their role is to inform jurist regarding the under-considered issues. Muslim biomedical professionals and policy makers are at the forefront in ensuring that the *fatāwā* are implemented in day-to-day practice.

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